

## SMOKING IN THE WORKPLACE: A Smouldering Issue

### Legislature Reacts to New Health Findings

#### Governor Issues Executive Order

Smoking in the workplace has been called variously, "a smouldering issue ready to break out into the open"; "a burning issue of our time"; and anti-smokers have called for a ban on all workplace smoking with "no ifs, ands, or butts."

While the topic easily lends itself to a variety of puns, the serious health consequences associated with smoking are anything but humorous.

The direct health effects of smoking are staggering. Cigarette smoking is widely recognized as the greatest preventable cause of premature death and disability in the United States. The Surgeon General's reports over the past 20 years have increasingly documented the strong connection between cancer, heart disease, and chronic obstructive pulmonary disease. It is currently estimated that at least 30 percent of all cancers, 25 percent of all cardiovascular disease and 80 percent of deaths from respiratory disease are directly attributable to smoking. In addition, 83 percent of all lung cancer is blamed on smoking. And the overall cancer death rate for male cigarette smokers is more than double that of non-smokers. Each year, approximately 320,000 deaths are related to smoking and it is estimated that smoking costs the nation more than \$27 billion in medical care annually. Now, the adverse health effects of exposure to second-hand smoke are of increasing concern.

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#### KEY PROVISIONS OF GOVERNOR'S EXECUTIVE ORDER REGULATING SMOKING IN STATE FACILITIES (Executive Order No. 86-17)

- **SMOKING PROHIBITED** in all State facilities, including those areas in privately-owned buildings occupied by the State of Rhode Island, except where specifically designated and in private offices singularly occupied or where there exists unanimous consent by its occupants.
- **SMOKING PROHIBITED** at meetings or conferences unless the smoking prohibition is specifically waived by the chair upon unanimous consent of the attendees.
- **SMOKING PERMITTED** only in properly designated areas, as determined by the appropriate authority in each State agency.
- Determinations made under this Executive Order must:
  - Reasonably accommodate the preferences of both smoking and nonsmoking employees. Emphasis however, must be placed on the needs of employees with physical conditions aggravated by smoke;
  - Clearly and conspicuously designate nonsmoking areas; and
  - Permit **NO** discrimination against employees exercising their rights under the provisions of the Governor's Executive Order.
- All appointing authorities are directed to resolve employee objections and complaints arising from the enforcement of the Governor's Executive Order and to accommodate the concerns of both smokers and nonsmokers as well as possible, in accordance with the provisions of the Rhode Island Workplace Smoking Pollution Control Act.
- All appointing authorities must immediately promulgate a nonsmoking policy containing a list of smoking and nonsmoking areas and distribute a copy of the policy to each employee.
- The Department of Health is directed to provide smoking cessation courses to all interested State employees and to prepare and make available nonsmoking brochures.
- The Department of Health is charged with the duty of insuring that all State agencies comply with the Governor's Executive Order.



## Smoking In The Workplace . . .

### Second-Hand Smoke

It has been fairly well established that exposure to second-hand smoke has an adverse effect on the health of children. Second-hand or passive smoking can cause not only eye irritation, but also cardiovascular and respiratory disease, and it now appears even lung cancer, in employees who do not smoke. Fifteen percent to 19 percent of employers have reported that their nonsmoking employees have claimed illnesses caused by on-the-job exposure to second-hand smoke. Increasingly, the U.S. legal system is upholding the right of employees to a smoke-free environment.

### The Economic Costs

In these days of rapidly escalating health-care costs, employers are increasingly interested in effective health-care, cost-containment strategies. In 1984, health care consumed nearly 12 percent of the Gross National Product; more than \$1 billion a day were spent on health care. Smoking has played a considerable part in these costs. The American public has spent more than \$930 billion on smoking-related medical costs and lost productivity since the first Surgeon General's report was published in 1964. In all, about 8.6 percent of the total national cost of illness is due to smoking-related disease. Thus, efforts to control workplace smoking can be an effective long-term way to contain health-care costs.

### Costs to Employers

Realizing that economic analyses can motivate decision-makers in business to take action, researchers have recently attempted to quantify the cost to employers of smoking employees. Dr. Marvin Kristein, reporting in Preventive Medicine, identified five "cost centers" to assess the employer's costs of smoking:

- insurance costs
- absenteeism costs
- productivity costs
- involuntary smoking costs
- occupational health costs

Analyzing expenses associated with these "cost centers," Kristein estimates that each smoker costs the employer an additional \$336 to \$601 a year strictly because of smoking.

Another researcher, William Weis, reporting in Management World, blames smoking for lowering the productivity of workers, and estimates that a smoker costs a company over \$4,700 more a year than does a nonsmoker. It is apparent from these findings that a significant and unnecessary annual cost is borne by employers simply from having smoking employees on the payroll.

### Costs to Employees

Other researchers have estimated that the lifetime cost of smoking to the average 45-year-old, two-pack-a-day male smoker is \$46,334 in medical expenses and premature disability and death.

### The Response

Faced with this dismal picture, a growing number of employers are beginning to marshal the unique strengths of the workplace to combat employee smoking. It is prudent, therefore, for business, industry and government to be concerned about the effects of passive smoking and to consider the recommendation of the Surgeon General in developing strategies for the control of second-hand smoke: "For the purpose of preventive medicine, prudence dictates that nonsmokers avoid exposure to second-hand tobacco smoke to the extent possible."

### Anti-Smoking Laws

Legislative, judicial, administrative, and legal decisions at all levels of government have recently combined to increase employer involvement in workplace smoking controls, and many states have passed workplace smoking-control legislation.

During the last session of the R.I. General Assembly, the legislators determined that, "The use of tobacco for smoking purposes is (being) found to be increasingly dangerous, not only to the person smoking, but also to the nonsmoking person who is required to breathe such contaminated air. The most

pervasive intrusion of the nonsmokers' right to unpolluted air space," said the legislature, "is the uncontrolled smoking in the workplace." The Rhode Island lawmakers then proceeded to pass legislation to control smoking at the worksite.

### The R.I. Workplace Smoking Pollution Control Act

The law is intended to protect public health and welfare by regulating smoking in the workplace and minimizing the toxic effects of smoking in the workplace by requiring employers to adopt policies that will accommodate, as much as possible, the preference of nonsmokers and smokers.

The key provisions of the law require all Rhode Island employers to:

- Adopt and implement a written smoking policy (The deadline for adopting such a policy was Sept. 29, 1986).
- Announce such a policy to all employees within 3 weeks of adoption, and to post such policy conspicuously in all workplaces under the employer's jurisdiction.
- The law allows any nonsmoking employee to object to his or her employer about the smoke hazard or discomfort in the workplace. The employer must attempt to reach a reasonable accommodation, insofar as possible, between smoking and nonsmoking employees.
- The employer must try to accommodate nonsmoking employees who are particularly sensitive to tobacco smoke as a result of health problems or other physical conditions.
- All nonsmoking areas are to be designated as such and clearly marked with signs.
- Employers are not required to make structural changes or make any expenditures to accommodate the preferences of nonsmoking or smoking employees. Employers are to use already available means of ventilation or separation or partition of the workplace.
- Employers may prohibit all smoking in the workplace if they so desire.
- Employers are prohibited from terminating without due cause or otherwise discriminating against any employee solely because he or she exercised his/her rights under this law.
- Employers who violate this law are liable for a civil penalty of not less than \$50 nor more than \$500, and each day a violation is permitted to continue shall constitute a separate offense, punishable as such.
- Upon receipt of a written and signed letter of complaint from an employee, the Department of Health shall serve written notice to the employer to comply with the law within 10 days. A copy of this notice shall be sent to the complaining employee. If a second complaint for the same or continued violation by the same employer is received, the Department of Health will call upon the Attorney General to initiate action to enforce the law, cause the correction of the violation, and assess and recover a civil penalty for such violation.
- Exemptions  
The following workplaces are exempt from the law:
  - A private home that may serve as a workplace
  - Any office space leased or rented by a sole independent contractor for his or her own use
  - A private enclosed workplace occupied exclusively by smokers, even if such workplace is visited by nonsmokers.

Legislative acts however, are but one form of pressure against workplace smoking. A number of other legal actions have already been successfully pursued by nonsmokers who want relief from workplace or public smoking.

Among the successful legal remedies and administrative decisions protecting the rights of nonsmokers are:

### Common Law Duty to Provide a Safe and Healthful Workplace

- *Shimp vs. New Jersey Bell Telephone Co.*
- *Smith vs. Western Electric*
- *Gordon vs. Raven Systems and Research Co.*

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## FROM THE OFFICE OF THE GOVERNOR . . .

### Executive Orders

No.	Date	Subject
86-17	9-26-86	Policy of the State of Rhode Island regarding smoking in all State facilities.
86-18	11-25-86	Awards the 88th Army Band, RIARNG, the sobriquet, "The Governor's Own."
86-19	12-15-86	Orders the Department of Transportation to study, evaluate, amend and republish applicable road engineering design standards to treat road run-off in sensitive areas in order to minimize the impact of road construction and run-off on the state's water resources.
87-1	1-12-87	Declares a condition of imminent danger exists in northern Rhode Island posed by a sniper in that area, and orders Military Police members of the Rhode Island National Guard into service to assist the State Police.
87-1.1	1-13-87	Authorizes mobilization of additional members of the Rhode Island National Guard to assist State Police in the investigation of sniper attacks in northern Rhode Island communities.

For more information or copies of Executive Orders, contact the Office of the Governor's Legal Counsel, Room 320, State House — 277-2080

### Smoking In The Workplace . . .

#### Entitlement to the Early Disability and Retirement Benefits

- *Parodi vs. Merit Systems Protection Board*

#### Entitlement to Worker's Compensation Benefits

- *Fuentes vs. Worker's Compensation Appeals Board*
- *Brooks vs. Trans World Airlines*

#### Entitlement to Unemployment Benefits

- *Alexander vs. CA Unemployment Insurance Appeals Board*
- *Gibson vs. Starkist*

- *Apell vs. Moorestown (NJ) Board of Education*

#### Protection from Wrongful Discharge

- *Hentzel vs. The Singer Company*
- *Gibson vs. Starkist*

#### Reasonable Accommodation Due to Handicap

- *Vickers vs. Veterans Administration*
- *Pletten vs. U.S. Army*

It is clear, then, that state legislative action nationwide as well as judicial and administrative findings are increasingly reinforcing the rights of nonsmokers in the workplace. This trend, combined with medical and economic costs of smoking, create a compelling rationale for Rhode Island employers to aggressively control workplace smoking.

### pRIde

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## VOLUNTEERS IN ACTION (VIA) AND THE PUBLIC SECTOR

### Volunteerism Takes Many Forms

It has been said that Americans are the most generous people on earth. We donate billions of dollars annually in money, goods and services, to an endless array of causes. We are also a nation of volunteers.

Volunteerism is deeply embedded in the American consciousness, and may well be the jewel of our American traditions. Happily, statistics show that this tradition is alive and well.

The number of volunteers in 1985 was estimated at 89 million, nearly equally divided among the sexes. More notable is the surprising statistic that more than half (52%) of all teenagers between 14-17 do volunteer work.

Volunteerism knows no age barrier. Forty-three percent (43%) of Americans over age 65 volunteered in 1985, as did an incredible twenty-five percent (25%) of those over age 75!

Nationally, volunteers contributed nearly half a work day each week (3.5 hours), and the monetary value of those services is estimated at \$110 billion.

There are certain kinds of volunteer work that are better known than others. Everyone knows of volunteers working in hospitals, libraries, with church groups, and other traditional institutions. Less known perhaps, are the opportunities for volunteer work with local and state government.

Rhode Island's private and public nonprofit organizations have a history of working together to provide services. The Department of Education, for example, has sought to fund innovative programs to increase opportunities for the handicapped and for illiterate young single parents. The Department of Children and Their Families has supported the efforts of many private nonprofit organizations to eliminate child abuse. Recently, the Department of Elderly Affairs (DEA) has supported the efforts of Volunteers in Action, Inc. (VIA), Rhode Island's independent, nonprofit and statewide voluntary action center to encourage volunteer participation in governmental agencies, maximize these agencies' ability to take advantage of the volunteer energies available to them, and recognize voluntary action statewide.

In June 1986, VIA completed the first year of its grant. Some of the accomplishments of that year are highlighted elsewhere in this article. The record supported what VIA already suspected; that volunteerism is alive and well in the public sector. However, the year's focus on volunteerism within the public sector also showed that organizations see the need for strengthening their ability to manage volunteers and volunteer programs. Employees of governmental agencies interested in volunteer programs have already begun to meet to discuss areas of common concern and to share resources. (For more information about these meetings, contact Anne Honer at Volunteers in Action, 421-6547).

Volunteers provide a wide variety of supplemental services for governmental agencies. These include:

- Guiding tours of the State House
- Developing youth through 4H programs statewide
- Providing patient information at the Veterans Administration Medical Center
- Assisting with programs and translating at Joseph Ladd Center
- Writing letters for clients of the State Services for the Blind
- Serving on commissions (for the handicapped and others)
- Service as court aides for the RI Department of Corrections
- Stuffing envelopes at the South County Community Action Program
- Assisting in the office of the state's IN-SITE elementary and secondary education program
- Compiling statistics for the Department of Public Defender
- Designing a manual cover for the Department of Administration
- Planning resource development strategies for the Department of Children and Their Families

(Continued on page 4)



## Volunteers In Action . . .

- Assisting the Town of Lincoln develop policy manuals
- Suggesting training resources for the City of East Providence.

One of the state supported programs, Court Appointed Special Advocates (CASA) was selected as a model volunteer program at the Governor's Conference on Volunteerism in April, 1986. Volunteers in this program serve as advocates for the rights of abused, neglected and dependent children under the protection of the Rhode Island Family Court.

The State of Rhode Island has renewed its commitment to VIA by providing a second year of funding to continue working with the public sector. For more information about Volunteers in Action, call 421-6547.

During the period of July 1, 1985 to June 30, 1986, VIA served 174 different governmental agencies, and provided:

- VE 189 hours of consultation in volunteer administration
- VE 148 mentions in newspaper columns of volunteer opportunities in governmental agencies
- VE Two meetings for employees interested in working with volunteers
- VE A newsletter focusing on volunteering in the public sector
- VE A workshop on working with court-ordered community service workers
- VE A statewide conference on volunteerism during National Volunteer Week with the support of the Governor's office

## PERSONNEL ADMINISTRATION OFFERS NEW TESTING PROGRAM

The Office of Personnel Administration (OPA), is now offering a new proficiency program for vacancies in Clerk-Typist and Clerk-Stenographer positions. Called the Continuous Clerical Testing Program, it replaces the traditional method of testing through written examinations.

The program is administered jointly with the Department of Employment Security who now offer proficiency testing for Clerk-Typist and Clerk Stenographer positions.

Here is how the program works:

To qualify for a Certificate of Proficiency, candidates must present one of the following:

- a certificate received within the past 18 months from a teacher of typing or stenography from a public or parochial school, an accredited private school, business or secretarial school, junior college or college, or from a manpower training and development course; OR,
- a notice of having passed, within 18 months, a typing or stenography test administered by the state employment service office.

Persons qualifying will have their names entered into the Employment Security Job Bank.

To register with the Employment Security Job Bank, candidates should call for an appointment at any Job Service office.

According to Personnel Administrator Brad Southworth, vacancies in Clerk-Typist and Clerk-Stenographer positions occur daily and the traditional method of testing through written examinations and OPA proficiency testing proved inadequate to meet the demand for employment in these classifications and to keep lists current.

Under the new program, state agencies requiring Clerk-Typists and Clerk-Stenographers, now have direct access through the Department of Employment Security to qualified applicants in the Employment Security Job Bank. Appointing authorities can make immediate appointments provided that the agencies are in compliance with their internal union contracts and their Affirmative Action Plan.

## BITS 'N' PIECES

The Regan Conference Center at the State General Hospital has a new name. By act of the legislature (Public Law 86-293), the center has been renamed the George C. Arnold, Jr. Conference Center.

Volunteers are urgently needed by the CASA (Court Appointed Special Advocate) program. Founded in 1978, CASA volunteers monitor abused and neglected children in the custody of the Department of Children and Their Families (DCF). Each volunteer works directly with a staff attorney to advocate for the best interests of these children. CASA offers a unique opportunity for volunteers to have a meaningful and significant impact on the lives of neglected and abused children. For more information call the program office at R.I. Family Court, 277-6863, or write to: Office of Court Appointed Special Advocate (CASA), RI Family Court, J. Joseph Garrahy Judicial Complex, One Dorrance Plaza, Providence, RI 02903.

In the September *pRide*, we reported that the Rhode Island 911 emergency telephone system was "operational." It turns out that we were only partially correct or partially incorrect, depending on how you wish to view it. Dialing 911 (from an "outside" phone or 9-911 from a Centrex phone), will bring an AT&T operator on line who can summon help for someone in an emergency situation. We learned from Colonel Ricci, the Executive Director of the emergency telephone system, that this arrangement was reached with AT&T primarily for the benefit of out-of-state visitors who come from areas with the 911 emergency system in place. Without this arrangement, visitors to Rhode Island in need of emergency help would get no response when dialing 911. Colonel Ricci added that the "true" 911 emergency telephone system is still 18 to 24 months away.

State Librarian Beth Perry called to say that she and her staff were inundated with phone calls from state employees asking for interpretation of legislation passed by the last session of the General Assembly, and how it affects them personally.

Our *Legislative Round Up* column in the September *pRide* was responsible for this flurry of activity. We added a footnote to the column that directed readers to their *Employee Relations Officer (ERO)* or the *Legislative Reference Section of the State Library*. It was our intent that readers call their ERO to determine how the legislation applied to them, and the State Library for directions on obtaining copies of the law in which they had an interest. But it didn't work out that way. Sorry, Beth!

We were pleased, however, to hear of the great response to our *Legislative Round Up* column, and to learn that state employees even read the footnotes!





## CLIP 'N' SAVE



### OFFICIAL STATE HOLIDAYS 1987

Thursday, January 1  
NEW YEAR'S DAY

Monday, January 19  
Dr. Martin Luther King, Jr.'s Birthday

Monday, May 25  
MEMORIAL DAY

Saturday, July 4  
INDEPENDENCE DAY

Monday, August 10  
VICTORY DAY

Monday, September 7  
LABOR DAY

Monday, October 12  
COLUMBUS DAY

Wednesday, November 11  
VETERANS DAY

Thursday, November 26  
THANKSGIVING DAY

Friday, December 25  
CHRISTMAS DAY



## CLIP 'N' SAVE

Looking for a job opportunity?



State Civil Service  
Exam Announcements  
**SECTION 312**  
Sunday's Journal  
Classified Ads



## AFFIRMATIVELY SPEAKING...

Did you know that there is a mechanism and a process that handicapped persons can follow that can eventually lead to permanent appointment to a classified position in state service? There is — in Chapter 4, Section 36-4-61 of the General Laws of Rhode Island, 1956, as amended.

According to this part of the Merit System Law, the Personnel Administrator is authorized to prepare, without examination, special lists of eligible persons who have a severe physical impairment, and who are certified by the Division of Vocational Rehabilitation, Department of Human Resources, to be physically capable and adequately trained, to qualify for an entrance level class of position in the classified service.

The special List of Eligibles is a list of names arranged in chronological order (by date of certification) of severely physically impaired persons who meet the requirements spelled out in the law.

In order to qualify for permanent appointment to the classified service, the handicapped person must:

- Have a severe physical impairment or combination of physical impairments which resulted in an inability to obtain permanent employment under competitive rules;
- Have successfully demonstrated an ability to do the job under temporary appointment, for a period of five (5) months prior to appointment to probationary status in the classified service; and
- Meet minimum qualification standards for the class of position. A severely handicapped person is defined as one with physical impairments which would ordinarily prove a serious hindrance to securing employment through the competitive examination system.

To apply for certification as a severely physically impaired person, and for consideration for the Special List of Eligibles, contact the R.I. Vocational Rehabilitation Service Office, 40 Fountain Street, Providence, RI 02902 (401) 421-7005 (voice) or (401) 421-7016 (TDD); the Office of Personnel Administration, 289 Promenade Street, Providence, RI 02908 (401) 277-2160 (voice/TDD); the Governor's Commission on the Handicapped, 500 Prospect Street, Pawtucket, RI 02860 (401) 277-3731 (voice), (401) 277-3701 (TDD), or your local office of the R.I. Department of Employment Security — Job Service.

There are many jobs in State Government that can be performed by persons with severe physical impairments. Many times however, the standard testing procedures impose a certain barrier to employment. The Special List of Eligibles is intended to help remove these barriers by providing the means for granting full consideration for employment of the handicapped in State Government.

### MANDATORY RETIREMENT AGE PROHIBITED

A federal law now eliminates a mandatory retirement age for employees of state and local governments. The law was effective on January 1, 1987. The law basically prohibits states from terminating employees upon attainment of a certain age. Rhode Island has a law which allows state employers to terminate an employee's job if the employee has reached the age of 70. This practice is no longer valid and legislation has been introduced to amend the Rhode Island law.



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